

**TITLE 16. CALIFORNIA ARCHITECTS BOARD  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE  
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

NOTICE IS HEREBY GIVEN that the California Architects Board (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the California Architects Board, 400 R Street, Suite 4000, Sacramento, California 95814, on **October 14, 2003 at 1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **October 14, 2003** or must be received by the Board at the hearing.

The Board, upon its own motion or at the insistence of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 5630 of the Business and Professions Code, and to implement, interpret or make specific sections 125.9, 129(e), 148, 5620.1, 5660, and 5665-5676 of the Business and Professions Code and section 6253 of the Government Code, the Board is considering changes to Division 26 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW**

Business and Professions Code section 5630 authorizes the Board to adopt, amend, or repeal rules and regulations, in accordance with the provisions of the Administrative Procedure Act, which are necessary to enable the Board to carry out the provisions of law relating to the practice of landscape architecture.

Protection of the health, safety, and welfare of California consumers is the Board's highest priority. To ensure such protection, the Board is mandated to investigate complaints against persons that are licensed by the Board and unlicensed persons that are subject to its jurisdiction.

**Amend Section 2608 – Complaint Information System:**

The existing regulation, which became effective on August 2, 1980, sets forth the Board's (formerly, the Board of Landscape Architects) complaint disclosure policy for landscape architects. The regulation establishes information to be provided to the public regarding complaints, disciplinary actions, license status, and the quantity of information to be provided per week.

This proposal retains the Board's existing complaint disclosure policy while including language that is consistent with DCA's "Recommended Minimum Standards for Consumer Complaint Disclosure" and the Board's revised consumer complaint disclosure policy and proposed regulation for architects (CCR section 137). More specifically, this proposal establishes the following: timeframes for incorporating complaint and disciplinary information into the Board's system; a timeframe for responding to requests for information; conditions of disclosure; more defined information to be disclosed regarding complaints and disciplinary actions; and information that shall not be disclosed to the public.

## FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Cost/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses. The proposed regulation sets forth, by regulation, the Board's amended consumer complaint disclosure policy.

## CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has made available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing

upon request from the California Architects Board, Landscape Architects Technical Committee at 400 R Street, Suite 4000, Sacramento, California, 95814, or by telephoning the contact person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Justin Sotelo
Address:	Landscape Architects Technical Committee 400 R Street, Suite 4000 Sacramento, CA 95814
Telephone No.:	(916) 445-6573
Fax No.:	(916) 324-2333
E-mail Address:	Justin_Sotelo@dca.ca.gov

The backup contact person is:

Name:	Mona Maggio
Address:	Landscape Architects Technical Committee 400 R Street, Suite 4000 Sacramento, CA 95814
Telephone No.:	(916) 445-6573
Fax No.:	(916) 324-2333
E-mail Address:	Mona_Maggio@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.latc.ca.gov>.

**STATE OF CALIFORNIA - DEPARTMENT OF CONSUMER AFFAIRS  
CALIFORNIA ARCHITECTS BOARD  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE  
INITIAL STATEMENT OF REASONS**

Hearing Date: October 14, 2003

Subject Matter of Proposed Regulations: Complaint Information System

Section Affected: Title 16, California Code of Regulations, Division 26, section 2608

As a result of legislative reorganization, the Landscape Architects Technical Committee (LATC), established on January 1, 1998, replaced the former Board of Landscape Architects and was placed under the purview of the California Architects Board (Board). Business and Professions Code section 5630 authorizes the Board to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry out the provisions of the Landscape Architects Practice Act.

**SPECIFIC PURPOSE OF AMENDMENT**

The Board's existing consumer complaint disclosure policy was designed to provide members of the public with information regarding license status and information regarding complaints and disciplinary action against licensed landscape architects. The specific purpose of this proposal is to retain the Board's existing policy for landscape architects and unlicensed persons subject to its jurisdiction while also including language that is consistent with the Department of Consumer Affairs' (DCA) "Recommended Minimum Standards for Consumer Complaint Disclosure" (adopted in July 2002) and the Board's revised consumer complaint disclosure policy (approved in December 2002) and proposed regulation for architects (California Code of Regulations [CCR] section 137).

**FACTUAL BASIS**

The Board currently has a consumer complaint disclosure policy for landscape architects, set forth by California Code of Regulations section 2608, which became effective on August 2, 1980.

In July 2001, DCA introduced discussion of consumer complaint disclosure standards. The intent of establishing such standards was enhancement of consumer protection. After extensive feedback from boards, bureaus, and the public, "Recommended Minimum Standards for Consumer Complaint Disclosure" were adopted by DCA in July 2002. DCA recommended that all boards use the standards as a framework for the development of standards and/or a consumer complaint disclosure policy by each board. In addition, the Board approved revisions to its consumer complaint disclosure policy for architects in December 2002.

This proposal retains the Board's existing complaint disclosure policy for landscape architects while including language that is consistent with DCA's "Recommended Minimum Standards for Consumer Complaint Disclosure" and the Board's revised consumer complaint disclosure policy and proposed regulation for architects (CCR section 137). More specifically, this proposal

establishes the following: timeframes for incorporating complaint and disciplinary information into the Board's system; a timeframe for responding to requests for information; conditions of disclosure; more defined information to be disclosed regarding complaints and disciplinary actions; and information that shall not be disclosed to the public.

The Board's revised policy for architects provides greater consumer protection by establishing criteria to disclose specific complaint information. This proposal adopts that same criteria for landscape architects in that the Board will disclose complaint information when the executive officer or designee has determined that one or more of the following has occurred: 1) a serious complaint has been filed and disclosure could provide protection to the public; 2) a complaint has resulted in a Citation being issued and served; 3) "pattern" complaints have been filed against the same subject; 4) a complaint has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or 5) a complaint has been referred to another law enforcement entity for prosecution. Specifying the criteria for reportable complaints and the information to be disclosed ensures uniformity. This policy also requires that an appropriate disclaimer(s) accompany disclosed complaint information.

#### UNDERLYING DATA

Technical, theoretical or empirical studies or reports relied upon: Department of Consumer Affairs' Recommended Minimum Standards for Consumer Complaint Disclosure.

#### BUSINESS IMPACT

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The California Public Records Act already requires an agency to aid the member of the public in making a focused request by assisting in identifying the records and information that may be responsive to the request. When a member of the public makes a request for complaint information on file with the Board, this proposal would assist them in identifying and obtaining the information sought.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

#### CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**CALIFORNIA ARCHITECTS BOARD  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE  
ORIGINALLY PROPOSED LANGUAGE**

Underlined text is proposed new language. Proposed deletions of the original language are denoted by ~~strikethrough~~.

**California Code of Regulations, Title 16, Division 26**

**§ 2608. ~~Complaint~~ Public Information System - Disclosure**

The Board shall ~~provide~~ establish and maintain a system designed to provide ~~individual~~ members of the ~~consuming~~ public with information regarding license status, complaints and disciplinary actions against licensees licensed landscape architects and unlicensed persons subject to its jurisdiction and Chapter 3.5 (commencing with section 5615), Division 3 of the Code, and information regarding their license status Information, as specified below, ~~unless in the determination of the Board disclosure of such complaint information would be unduly prejudicial to licensees~~ shall be disclosed to members of the public, upon request by telephone, in person, or in writing (including fax, email, and the Internet). Such information, when feasible and to the extent required or permitted by law, may be made available by the Board in writing and by telephone. Requests for information shall be responded to within ten (10) days.

**(a) Information to be Disclosed Regarding License Status.**

The Board shall disclose the following information regarding past and current licensees:

- (1) The name of the licensee, as it appears in the Board's records;
- (2) The license number;
- (3) The address of record;
- (4) The license issue date;
- (5) The license expiration date; and
- (6) The license status and history.

**(~~a~~) Information to be ~~Provided~~ Disclosed Regarding Complaints.**

~~The Board shall maintain a system of information, regarding complaints received during the preceding three years which will afford to members of the public, upon written request, all of the following regarding a particular licensee: Complaint information that is determined to meet the conditions of disclosure listed in subsection (d) shall be incorporated into the system no later than ten (10) days after the conditions of disclosure have been met. When conditions of disclosure have been met, the Board shall disclose the following information regarding complaints received against licensees and unlicensed persons, if applicable:~~

- ~~(1) The number of such complaints which, after investigation including contact with the licensee, have been found by Board staff to indicate probable violations of the Board's licensing law or regulations.~~
- ~~(2) With respect to each such complaint, the following information:~~
  - ~~(A) Its date of receipt by year.~~
  - ~~(B) Its disposition, by indicating whether the matter has been~~
    - ~~1. referred to formal disciplinary action;~~
    - ~~2. found to involve a minor violation not in itself meriting disciplinary action;~~
    - ~~3. disposed of through settlement, compromise or complaint mediation; or~~
    - ~~4. disposed of through any other action, formal or informal, taken against the licensee.~~
- ~~(3) Such comparative data as may be considered by the Board to be informative to consumers.~~
- ~~(4) Such general cautionary statement, as the Board may deem appropriate, regarding the utility of complaint information to individual consumers in their selection of a licensed landscape architect.~~

~~(5) If a complaint which was initially determined to indicate a probable violation of law is later found by the Board's staff upon further investigation not to truly involve a violation, it shall be deleted from the complaint system.~~

(1) Total number of complaints meeting conditions of disclosure;

(2) Date(s) of receipt and nature of the complaint(s);

(3) Disposition of the complaint(s), by indicating whether the matter has been:

(A) referred to formal disciplinary action;

(B) disposed of through any other action, formal or informal; or

(C) other disposition;

(4) Information which is statutorily mandated to be disclosed;

(5) Current status of criminal prosecution resulting from a complaint received by the Board;

(6) A description of the type of public information not included in the system (i.e., civil judgements, criminal convictions, unsubstantiated complaints); and

(7) Disclaimers indicating that the system does not constitute endorsement or non-endorsement of a person, and that the system may not contain all available information.

~~(b)(c)~~ Information to be Provided Disclosed Regarding Disciplinary Action.

~~The Board shall maintain records showing the disciplinary history of all current license holders and shall provide to members of the public, upon written request, the following information: Disciplinary information that is determined to meet the conditions of disclosure listed in subsection (e) shall be incorporated into the system no later than ten (10) days after the conditions of disclosure have been met. When conditions of disclosure have been met, the Board shall disclose the following information regarding disciplinary action taken against licensees and unlicensed persons, if applicable:~~

~~(1) Whether any current licensee has ever been disciplined and, if so, when and for what offense.~~

~~(2) Whether any current licensee has been named in any disciplinary action.~~

(1) Total number of disciplinary, enforcement, and public corrective actions taken by the Board;

(2) Brief summary of disciplinary, enforcement, and public corrective actions taken by the Board; Citations that have been satisfactorily resolved shall be disclosed as such;

(3) Current status of pending Accusations, Statement of Issues, and Citations filed by the Board; disclosure of pending actions shall contain a disclaimer stating that the pending administrative action(s) against the person is/are alleged and no final legal determination has yet been made; further disclaimers or cautionary statements regarding such pending actions may also be made; and

(4) Information which is statutorily mandated to be disclosed.

~~(c)~~ Information to be Provided Regarding License Status.

~~The Board shall maintain records showing certain license information for all past and current license holders. The Board shall provide to members of the public upon written request, the following information regarding past and current licensees:~~

~~(1) The name of the landscape architect as it appears in the Board's records.~~

~~(2) The license number.~~

~~(3) The address and business telephone number of record.~~

~~(4) The date of original licensure.~~

~~(5) The date or dates such license expired, lapsed, or was terminated and if applicable, the reason for termination.~~

(d) Conditions of Disclosure.

The Board shall disclose complaint information when the executive officer or his or her designee has determined that one or more of the following have occurred:

- (1) A complaint is serious and disclosure could provide protection to the public;
- (2) A complaint has resulted in a Citation being issued and served;
- (3) "Pattern" complaints against an individual have been received by the Board and it has been determined that disclosure may protect the consumer and/or prevent additional harm to the public;
- (4) A complaint has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or
- (5) A complaint has been referred to other law enforcement entity for prosecution.

(e) Information about a complaint or disciplinary action shall not be disclosed if it is determined by the executive officer or his or her designee that any of the following apply:

- (1) Disclosure is prohibited by statute or regulation;
- (2) Disclosure might compromise an investigation or prosecution; or
- (3) Disclosure might endanger or injure the complainant or third party.

(d)f) Quantity of Information to be Provided Per Week.

To avoid undue delay in the Board's response to other requesters and ~~to avoid in order that no one requester may~~ overburdening the Board's system, the Board may establish reasonable limits on the number of requests per week from any one requester ~~which the Board may handle~~.

Note: Authority Cited: Section 5630, Business and Professions Code. Reference: Sections 125.9, 129(e), 148, 5620.1, 5660, 5665-5676, Business and Professions Code and Government Code Section 6253.



**CALIFORNIA ARCHITECTS BOARD  
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE  
FINAL STATEMENT OF REASONS**

Hearing Date: October 14, 2003

Subject Matter of Proposed Regulation: Complaint Information System

Section Affected: California Code of Regulations, Title 16, Division 26, Section 2608

**UPDATED INFORMATION**

The Initial Statement of Reasons is included in this rulemaking file. The information contained therein is complete, and no changes have been made.

**LOCAL MANDATE**

A mandate is not imposed on local agencies or school districts.

**SMALL BUSINESS IMPACT**

This regulation will not have an adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The California Public Records Act already requires an agency to aid the member of the public in making a focused request by assisting in identifying the records and information that may be responsive to the request. When a member of the public makes a request for complaint information on file with the Board, this proposal would assist them in identifying and obtaining the information sought.

**CONSIDERATION OF ALTERNATIVES**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board and the LATC would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**OBJECTIONS OR RECOMMENDATIONS/RESPONSES**

There were no objections or recommendations regarding the proposed action.